

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
C.A. No. 3:23-cv-245-MOC-DCK**

SOMERO ENTERPRISES, INC.,

Plaintiff,

v.

**TOPP & SCREED S.A., and
INDUSTRIAL FLOOR CONSULTING,
INC.,**

Defendants.

JOINT STATUS REPORT

Pursuant to the Court’s May 17, 2024 Order (D.I. 54), Plaintiff Somero Enterprises, Inc. (“Plaintiff” or “Somero”) and Defendants Topp & Screed S.A. and Industrial Floor Consulting, Inc. (collectively, “Defendants”) hereby submit this Joint Status Report.

Defendants filed a petition for *inter partes* review (“IPR”) on October 24, 2023. On April 10, 2024, the Patent Trial and Appeal Board (“PTAB”) granted Defendants’ petition and instituted IPR against Somero’s ’366 Patent. (*See, e.g.*, D.I. 53.) In view of the PTAB’s institution decision, Somero consented to Defendants’ request that this action be stayed pending resolution of the IPR, which this Court granted. (*See id.*; D.I. 54.)

On May 28, 2024, Somero informed Defendants that it would not file a Patent Owner Response to the petition in the IPR, and that it would dismiss the action in this Court with prejudice. On June 24, 2024, Somero likewise informed the PTAB of its intent not to file a Patent Owner response, and, pursuant to the PTAB’s requirements, requested a conference call to discuss. The parties jointly had said conference call with the PTAB on June 28, 2024. On that call, Somero explained its belief that the claims of the ’366 Patent are valid and would survive

the IPR challenge, but for various reasons unrelated to the merits, Somero would not be filing a Patent Owner Response or otherwise defending the '366 Patent in the IPR.

As of the date of this filing, the PTAB has not issued any additional rulings on the IPR, which remains pending.

Consistent with the Court's Order, the parties will continue to update this Court on the status of the IPR every 90 days.

Dated: August 20, 2024

s/Sarah Sloan Batson

Sarah E. Waidelich
Admitted Pro Hac Vice
Honigman LLP
315 E. Eisenhower Parkway, Suite 100
Ann Arbor, MI 48108
Telephone: 734-418-4200
swaidelich@honigman.com

Leigh C. Taggart
Admitted Pro Hac Vice
Honigman LLP
39400 Woodward Ave., Suite 101
Bloomfield Hills, MI 48304
Telephone: 248-566-8300
ltaggart@honigman.com

Sarah Sloan Batson
NC Bar No. 42066
Maynard Nexsen PC
104 South Main Street, Suite 900
Greenville, SC 29601
Telephone: 864-370-2211
sbatson@maynardnexsen.com

Sarah Ashley Barnett
NC Bar No. 52018
Seth L. Hudson
NC Bar No. 32259
Maynard Nexsen PC

s/Eugene S. Hwangbo

Samuel Alexander Long, Jr. (N.C. Bar No. 46588)
Lucas D. Garber (N.C. Bar No. 47756)
Tom BenGera (N.C. Bar No. 57019)
SHUMAKER, LOOP & KENDRICK, LLP
101 South Tryon Street, Suite 2200
Charlotte, North Carolina 28280
Tel: (704) 375-0057
Fax: (704) 332-1197
along@shumaker.com
lgarber@shumaker.com
tbengera@shumaker.com

Jason C. White (admitted *pro hac vice*)
Nicholas A. Restauri (admitted *pro hac vice*)
Eugene S. Hwangbo (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive, Suite 2800
Chicago, Illinois 60606
Tel: (312) 324-1000
Fax: (312) 324-1001
jason.white@morganlewis.com
nicholas.restauri@morganlewis.com
eugene.hwangbo@morganlewis.com

*Attorneys for Defendants Topp & Screed, S.A.
and Industrial Floor Consulting, Inc.*

227 West Trade Street, Suite 1550
Charlotte, NC 28202
Telephone: 704-339-0304
sbarnett@maynardnexsen.com
shudson@maynardnexsen.com

Attorneys for Plaintiff Somero Enterprises, Inc.